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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VESA METSATAHTI, CHRISTIAN LINDHOLM, TOMI HAKARI, and ANDREA FINKE-ANLAUFF

Appeal 2009-007040
Application 10/715,093
Technology Center 2100

Before JOSEPH L. DIXON, THU A. DANG, and JAMES R. HUGHES, *Administrative Patent Judges*.

DANG, *Administrative Patent Judge*.

DECISION ON APPEAL[1]

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

I. STATEMENT OF CASE

Appellants appeal the Examiner's final rejection of claims 1, 2, 6-12, 16-23, 26-41, 43-50, 52-59, and 61 under 35 U.S.C. § 134(a). Claims 3-5, 13-15, 24, 25, 42, 51, and 60 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

A. INVENTION

According to Appellants, the invention relates to digital storage and management of media files and, more specifically, to a media file management application that provides for media files, calendared events and periods of time to be bookmarked and annotated (Spec. 1, ll. 3-5).

B. ILLUSTRATIVE CLAIM

Claim 1 is exemplary and reproduced below:

> 1. An application for accessing media files on a digital device, the application comprising a computer readable storage medium having computer readable program instructions embodied in the medium, the computer-readable program instructions comprising:
>
> first instructions for generating a media view that provides access to digital media files and associates digital media files with a period of time; and
>
> second instructions for generating an information identifier that is associated with at least one item of information including at least one of a digital media file, a calendared event and a period of time, wherein the information identifier enhances identification of the at least one item of information

by displaying a frame around the at least one item of information based on metadata associated with the item of information.

C. REJECTIONS

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Samra	US 2002/0113803 A1	Aug. 22, 2002
Smith	US 2002/0147744 A1	Oct. 10, 2002
Rothmuller	US 2003/0033296 A1	Feb. 13, 2003
Lauris	US 2003/0095143 A1	May 22, 2003

Claims 1, 2 and 6-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rothmuller in view of Lauris.

Claims 11, 12, 16-23, 26-38, 41, 43-47, 50, 52-56, 59, and 61 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rothmuller in view of Lauris and Samra.

Claims 39, 40, 48, 49, 57, and 58 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rothmuller in view of Lauris, Samra and Smith.

II. ISSUE

Has the Examiner erred in concluding that Rothmuller in view of Lauris would have suggested information identifier associated with at least one item of information (a digital media file, a calendared event, or a period of time) that enhances identification by "displaying a frame around the at least one item of information based on metadata associated with the item of information" (claim 1)?

III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

Rothmuller

1. Rothmuller discloses selecting, sorting, organizing and finding objects based on their tagged metadata content (pg. 1, ¶ [0004]), wherein objects can be viewed or arranged according to the degree to which they have associated metadata that matches the search criteria (pg. 1, ¶ [0007]).
2. When photos are imported to a database, the temporal metadata associated with the photos can be used to present a histogram of photos in the form of a timeline, wherein the timeline can show the number of photos taken as a function of time over some period of time, and the timeline includes an adjustable time bar that can be moved to allow the timeline to specify the time period that is used to find matched photos (pg. 3, ¶ [0028]; Fig. 3).

Lauris

3. Lauris discloses a graphic user interface (GUI) which consists of a tree and a map panel (pg. 2, ¶ [0021]; Figs. 1-3), wherein each object has a border (pg. 2, ¶ [0023])
4. Lauris is directed to changing or adding/deleting visual indicators (pg. 1, ¶ [0008], wherein a user can request that an object border can be changed to yellow instead of green for a particular situation (pg. 1, ¶ [0012]).

IV. ANALYSIS

Claims 1, 2, and 6-10

As to representative claim 1, Appellants argue that "the borders of *Lauris* relay information about the physical nodes and clusters represented by the node/cluster icons, and are not indicative of data about data (*i.e.*, metadata)" (App. Br. 8). In particular, Appellants contend that "the data regarding operational statuses of the nodes/clusters discussed in *Lauris* are not metadata" (App. Br. 7). Appellants then argue that Rothmuller fails to disclose or suggest the features of claim 1 (App. Br. 9)

However, the Examiner finds that "Lauris is directed to graphical display of object status with respect to [r]elated under[lying] data, particularly object format files and defining related visual indicators" (Ans. 23) and that, since "each object has not only border, status of object, but also identifies with specific color codes … , 'metadata' is integral part of [managed object format] MOF files" (Ans. 28). The Examiner points out that "Rothmuller teaches objects in different match groups particularly in the display area by visual indicators for example different colors or patterns" whereas "Lauris also teaches not only visual indicators, but also each object has specific color" (*id.*).

We note that Appellants' contention that Lauris's borders "are not indicative of data about data (*i.e.*, metadata)" (App. Br. 8) is not commensurate in scope with the language of claim 1. In particular, claim 1 does not require that the borders are *indicative* of the metadata, but rather, a frame, such as a border, is displayed "based on" metadata. Accordingly, we address in this appeal whether Rothmuller in view of Lauris would have suggested "displaying a frame around the at least one item of information

based on metadata associated with the item of information" as specifically recited in claim 1.

Rothmuller discloses selecting objects based on their metadata content, wherein objects can be viewed or arranged according to the metadata (FF 1). We find claim 1's item of information to read on Rothmuller's objects, and thus find Rothmuller to disclose displaying an item of information based on metadata associated with the item of information.

Lauris discloses displaying an object and a border around the object (FF 3), and wherein the display of the border is changed in accordance with a particular situation (FF 4). We find a frame around the at least one item of information to read on Lauris's border surrounding the object, and thus find Lauris to disclose displaying a frame around the at least one item of information. Accordingly, we find no error in the Examiner's conclusion that Rothmuller in view of Lauris would have at least suggested displaying a frame around the at least one time of information based on metadata associated with the item of information as required by claim 1.

Though Appellants argue that "the data regarding operational statuses of the nodes/clusters discussed in *Lauris* are not metadata" (App. Br. 7) and that Rothmuller fails to disclose or suggest the features of claim 1 (App. Br. 9), Appellants appear to be arguing that *individually*, Rothmuller and Lauris do not disclose the claimed features. However, the Examiner rejects the claims over the combined teachings of the references, and the test for obviousness is what the combined teachings would have suggested to one of ordinary skill in the art. One cannot show nonobviousness by attacking

references individually where the rejections are based on combinations of references. *See In re Merck*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

We conclude that such combination of Lauris's teaching of displaying a frame around an item of information with Rothmuller's teaching of displaying items of information based on the metadata associated with the item of information is no more than a simple arrangement of old elements, with each performing the same function it had been known to perform, yielding no more than one would expect from such an arrangement. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007).

The skilled artisan would "be able to fit the teachings of multiple patents together like pieces of a puzzle" since the skilled artisan is "a person of ordinary creativity, not an automaton." *Id.* at 420-21. Appellants have presented no evidence that modifying Rothmuller's displayed objects with Lauris's border surround the objects was "uniquely challenging or difficult for one of ordinary skill in the art" or "represented an unobvious step over the prior art." *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 418-19).

As to claim 9, which Appellants appear to argue individually, Rothmuller does not disclose the claimed features (App. Br. 11). However, we see no error in the Examiner's conclusion that Rothmuller in view of Lauris would have suggested such features (Ans. 32-33).

Accordingly, we affirm the rejection of claim 1 and claims 2 and 6, 7, 9, and 10 falling therewith under 35 U.S.C. § 103(a) as being unpatentable over Rothmuller in view of Lauris.

As to claim 8, Appellants argue that "*Rothmuller* appears to divide time into uniformly-sized increments" (App. Br. 10). That is, according to

Appellants, "the bars of the bar graph do not 'divide time' within the timeline" (*id*) as required by claim 8.

Though the Examiner finds that "Rothmuller specifically suggested timeline includes 'adjustable time bands fig 3 element 251'" (Ans. 31) and thus "Rothmuller teaches divide time within the timeline" (*id.*), we agree with Appellants. In particular, claim 8 requires that the time bar "divides time into segments having a size that depends upon the digital media files in the media view associated with a respective segment of time." We do not find such teachings in the portions of Rothmuller cited by the Examiner. In particular, Rothmuller merely discloses that the adjustable time bar can be moved to allow the timeline to specify the time period (FF 2). However, in the portions of Rothmuller cited by the Examiner, we do not find any teaching of moving the time bar depending upon the digital media files.

Lauris does not cure this deficiency of Rothmuller. Accordingly, we reverse the rejection of claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Rothmuller in view of Lauris.

Claims 11, 12, 16-23, 26-38, 41, 43-47, 50, 52-56, 59, and 61

As for independent claims 11 and 21, Appellants merely argue that "*Samra* does not cure this deficiency in *Rothmuller* and *Lauris*" (App. Br. 12), and then argues that individually "*Samra* does not appear to teach or suggest graphically altering a representation of an item of information based on metadata associated with the item of information" (*id.*).

As discussed above, we find no deficiencies in Rothmuller and Lauris. Furthermore, the claims are rejected over the combination of Rothmuller, Lauris and Samra, and not Samra individually, wherein we do not find any error in the Examiner's finding that the combination of Rothmuller in view

of Lauris and Samra at least would have suggested the claimed features (Ans. 33-38).

As to claim 19, Appellants appear to repeat the argument that individually, Rothmuller does not disclose the claimed features (App. Br. 14). However, we see no error in the Examiner's conclusion that Rothmuller in view of Lauris and Samra would have suggested such features (Ans. 39).

Accordingly, we affirm the rejection of independent claims 11 and 21 and claims 12, 16, 17, 20, 22, 23, 26-38, 41, 43-47, 50, 52-56, 59, and 61 falling therewith under 35 U.S.C. § 103(a) as being unpatentable over Rothmuller in view of Lauris and Samra.

As to claim 18, though the Examiner repeats the finding that "Rothmuller specifically teaches time line not only divided into segments having a bar graph size, but also allows adjustable time bands" (Ans. 38), we agree with Appellants that Rothmuller does not disclose or suggest the features of claim 18 (App. Br. 13). As discussed above, in the portions of Rothmuller cited by the Examiner, we do not find any teaching of moving the time bar depending upon the digital media files. Accordingly, we reverse the rejection of claim 18 under 35 U.S.C. § 103(a) as being unpatentable over Rothmuller in view of Lauris and Samra.

Claims 39, 40, 48, 49, 57, and 58

As for claims 39, 40, 48, 49, 57, and 58, Appellants merely argue that "*Smith* also does not disclose 'adding frames around a representation of [an] item of information based on metadata associated with the item of inforamtion" (App. Br. 14). Again, Appellants appear to be arguing that individually Smith the features of the claims (*id.*).

As the claims are rejected over the combination of Rothmuller, Lauris, Samra and Smith, and not Smith individually, we do not find any error in the Examiner's finding that the combination of Rothmuller in view of Lauris, Samra and Smith at least would have suggested the claimed features (Ans. 40). Accordingly, we affirm the rejection of claims 39, 40, 48, 49, 57, and 58 under 35 U.S.C. § 103(a) as being unpatentable over Rothmuller in view of Lauris, Samra and Smith.

V. CONCLUSIONS AND DECISION

The Examiner's decision rejecting claims 1, 2, 6, 7, 9-12, 16, 17, 19-23, 26-41, 43-50, 52-59, and 61 under 35 U.S.C. § 103(a) is affirmed, and the Examiner's decision rejecting claims 8 and 18 under 35 U.S.C. § 103(a) is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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